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South Carolina House of Representatives

# Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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## CONTENTS

### LEGISLATIVE UPDATE

More Bills...And Still More!.....	1-2
Jobs 1990—Projected Trends.....	1-4
Updating the <i>Update</i> .....	1-5
State Exclusion of Pensions from Tax.....	1-6
Lobbyist Regulations in the States.....	1-7

### RESEARCH REPORT

Mandatory Seat Belt Laws: State Actions in 84.....	2-1
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## Legislative Update

### More Bills...And Still More!

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"The law is the last result of human wisdom acting upon human experience for the benefit of the public." So Dr. Samuel Johnson remarked. A summary of some recently filed bills aimed at benefiting the public of South Carolina follows.

#### Financial

Move up date of interstate banking (S.61). Last year the General Assembly passed a measure that would allow interstate banking in the southeast. The effective date was set as July 1, 1986. However, other states are putting their interstate banking laws into effect sooner than--most of them this year. This bill would put South Carolina on the common time table.

Biennial State Budget (S.63). If this bill were passed the General Assembly would write a budget for two years instead of one. Some observers feel that the state has already moved into a two-year budget process through formula funding and other long-range obligations. (See last the research report in issue number 1 of the *Update*.)

#### Justice

Pistol registration (H.2057). In addition to stiffening the penalties for violation of the pistol laws, H.2057 would require a one week wait before a pistol could be purchased.

Death penalty--number of jurors (H.2115). Presently South Carolina laws require a two part, or bifurcated, trial process to impose the death penalty. A person must first be found guilty of a crime that can carry the death penalty; then the jury must decide whether the penalty should be imposed. Currently a unanimous vote is required for the death penalty; this bill would reduce that number to eight. A constitutional amendment would be required.

Raise drinking age to 21 (H.2083). The trend is definitely on to set the legal drinking age at 21. The federal government is pushing for states to take such action by threatening to reduce federal highway funds by 5% in FY 87 and 10% in FY 88. The National Conference of State Legislatures estimates that South Carolina's loss in FY 87 would be \$7,616,000

*Legislative Update, January 22, 1985*

Commerce & Industry

State elevator code (S.66). This bill would provide for state-wide standards, regulation and inspection of elevators.

Suspend "blue laws" (H.2103, S.74). The infamous blue laws would be suspended from 1 p.m. until 6 p.m. on Sundays.

Transportation & Safety

Mopeds considered motor vehicles (H.2121). "Mopeds," those pesky little bikes with motors, would be classified as motor vehicles if this bill passes. In that event people would be required to have a driver's license to operate the things.

Government

Chief Justice Littlejohn invited to speak (H.2112). This concurrent resolution invites Chief Justice Bruce Littlejohn of the South Carolina Supreme Court to address a joint session of the General Assembly at noon, February 6, 1985.

40% vote means no runoff (H.2082). This bill would change the primary election laws so that if one candidate received 40% of the vote there would be no second election, or runoff. Currently one candidate must receive a majority of the votes cast in the primary to avoid a runoff.

Only a handful of states require a majority in their primary elections. They are: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas.

"Louisiana has an open primary which requires all candidates, regardless of party affiliation, to appear on a single ballot. If a candidate receives over 50 percent of the vote in the primary, he is elected to office. If no candidate receives a majority vote, then a single election is held between the two candidates receiving the most votes." [Book of the States 1984-85 published by the Council of State Governments, Lexington, Kentucky]

Regulation of lobbyists (H.2123). Persons acting as lobbyists would be required to register with the State Ethics Commission and submit a quarterly report showing their total expenditures, expenditures by category, source of income, monies or gifts to officials, and business associations with state officials.

A summary of the laws covering lobbyists in other states can be found on page 7 of this issue of the Update.

Bicentennial of U.S. Constitution (S.64). 1987 will mark the 200th anniversary of the United States Constitution. This bill would set up a committee to prepare for the celebration of the bicentennial of the Constitution. Back in 1887 William E. Gladstone, the great British Prime Minister, wrote to the committee in charge of the centennial of the Constitution:

I have always regarded that Constitution as the most remarkable work known to me in modern times to have been produced by the human intellect, at a single stroke (so to speak), in its application to political affairs.

#### Environment & Energy

State water policy (H.2104). This bill is essentially the same as one introduced last session. The purpose is to provide a "well-balanced, coordinated and comprehensive state water resources policy" to promote the efficient use of water in the state, and provide for its conservation and proper management. A companion bill, H.2105, would require that the Attorney General be notified of legal actions regarding water rights, and would permit the AG to intervene when the case has potential of affecting the state's water rights.

#### Health

Medically indigent (H.2118). A proposal on how to cope with the growing number of persons who are unable to pay the costs of medical treatment. Refer to last issue's research report for a more detailed examination of the subject.

#### Jobs 1990--Projected Trends

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What jobs will people be doing in South Carolina in five years? How many people will be working in those jobs? That's the kind of questions that the South Carolina Employment Security Commission worries about. In their November, 1984 issue of *Employment Trends* the Commission gives its projections for nonagricultural employment in South Carolina for 1990.

What does the Commission see in its crystal ball? Generally, more employment in all categories except textiles. Wholesale and retail trade will experience a healthy boost, as will finance, insurance and real estate and the service sector. Textiles, with few exceptions, will decline in all categories; the implications of this are obvious.

*Legislative Update, January 22, 1985*

The figures below show Commission calculations of employment change in South Carolina for the next five years. Not all categories are listed, only those with significant increases or decreases. Readers who would like the full estimates are referred to the November, 1984 issue of *S.C. Employment Trends*, published by the S.C. Employment Security Commission, P.O. Box 995, Columbia, S.C. 29202.

Present and Projected Employment in S.C.

[Figures are in thousands, rounded to the nearest hundred.]

<u>Industry</u>	1983 Monthly Average <u>Employment</u>	1990 Monthly Average <u>Employment</u>
Total nonagricultural	1,182.4	1,442.5
Construction	69.2	80.2
Manufacturing	362.0	384.4
Machinery (except electrical)	27.5	34.0
Electric Equipment	20.7	25.1
Food products	14.4	16.5
Textiles	113.6	100.6
Apparels	46.5	46.6
Paper products	14.3	16.3
Printing/publishing	8.6	10.0
Rubber/plastics	18.6	23.4
Transport/utilities	54.0	68.0
Wholesale/retail	237.2	303.6
Finance/insurance	50.9	64.1
Servies (total)	117.1	288.6
Hotels	16.7	26.1
Health	40.6	52.3
Federal government	37.1	39.3
State government	70.4	76.5
State education	27.3	32.5
Local government	122.9	135.8

Updating the Update

In the last edition of *Legislative Update & Research Reports* we inadvertently misspelled the name of Linda Stanick, Executive Secretary of the Medical, Military, Public & Municipal Affairs Committee. We regret the error.

State Exclusions of Pensions from Taxes

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H.2020 would increase to \$6,000 the amount of a pension that could be deducted for tax purposes. The current level is \$1,200. How does South Carolina stack up with other states in this area? The National Conference of State Governments recently conducted a poll which covered this very topic.

From the NCSL study, it would seem that \$6,000 is often picked as the amount of the deduction allowed from pensions. The lowest state which allows deductions at all is Montana, with \$360. Hawaii and Pennsylvania are the most generous, exempting all pension income. The various deductions and provisions are briefly sketched out in the table below.

<u>STATE</u>	<u>EXCLUSIONS FROM TAXATION</u>
Arkansas	Now \$1,000 of private pension pay, increasing to \$6,000 by 1986.
Colorado	Up to \$20,000, regardless of source.
Delaware	Up to \$2,000, regardless of source.
Georgia	Up to \$2,000, regardless of source.
Hawaii	All pension income received is exempted.
Idaho	For persons 65 and older (or 62 and disabled), all income, up to the maximum Social Security benefits minus actual benefits received.
Louisiana	Up to \$6,000, regardless of source.
Maryland	Either the lesser amount of retirement benefits or maximum annual benefit of Social Security reduced by actual benefits received.
Michigan	Up to \$7,500, regardless of source.
Minnesota	The greater part of \$11,000 reduced by the amount of the taxpayer's federal adjusted gross income over \$17,000; or \$11,000 reduced by the sum of Social Security and Railroad Retirement benefits and the excess over \$23,000 of federal adjusted gross income.
Mississippi	Up to \$5,000, regardless of source.
Montana	Up to \$360 of private retirement income.

STATE

EXCLUSIONS FROM TAXATION

New Jersey	If married and filing jointly, up to \$10,000; if married and filing separately, \$5,000; if single, up to \$7,500. This is regardless of source. Persons with less pension income and less than \$3,000 income from either employee compensation, net business profit, or distributive share of income are entitled to exempt additional income up to the limits listed above. Persons who do <u>not</u> receive Social Security or Railroad Retirement, but who <u>would</u> receive benefits if enrolled in these systems are allowed an additional \$3,000 exemption, or \$6,000 if married and filing jointly.
New Mexico	Persons 65 and older can claim an exemption of \$6,000, less the amount of income included in base income but excluded from net income.
New York	State pensions are fully exempt. For persons 59-1/2 and older, up to \$20,000, any source.
Pennsylvania	All pension, annuity and retirement income.
South Carolina	Up to \$1,200 if over 65.
Utah	Up to \$6,000 if 65 or older; \$4,800 if younger. Taxpayers filing jointly may each exclude \$4,800. Retirement income includes pensions, annuities, interest, net rental income and dividends of qualified bond purchase plans.

Source: NCSL survey

Lobbyist Regulations in the States

A recently filed bill, H.2123, would increase the regulation of lobbyists in South Carolina. This has prompted several lawmakers to ask what regulations and reporting requirements govern lobbyists in the other states. The most common regulations require that lobbyist register with the state, most often with the Secretary of State. Reporting requirements vary greatly, but the six items most frequently cited are:.

1) Total expenditures, 2) expenditures by category, 3) sources of income, 4) monies or gifts to state officials, 5) legislation supported or opposed, 6) business associations with state officials.

The chart on the next four pages gives a summary of the lobbyist registration and reporting laws for the 50 states.

## Lobbyists: Registration and Reporting Laws

STATE	LOBBYIST MUST REGISTER WITH	FREQUENCY OF REPORT	ACTIVITIES REPORTED	PENALTIES
Alabama	Ethics Commission	Monthly during session	Total expenditures, sources of income, monies or gifts to officials, legislation supported or opposed, business associations with officials	Fine up to \$10,000, 10 years in prison, or both
Alaska	Public Offices Commission	Monthly while lobbyist	Total expenditures, sources of income, monies or gifts to officials, business associations with officials	Failure to register on time: \$10/day until filed; other violations: fine up to \$1,000 and/or 1 year prison
Arizona	Secy of State	Annually	Total expenditures, monies or gifts to officials	Prosecuted as Class 1 misdemeanor
Arkansas	Clerk of House, Secy of Senate	Not required	None	None specified
California	Secy of State	Quarterly	Sources of income, monies or gifts to officials, legislation supported or opposed, business associations with officials	Misdemeanor with civil fines
Colorado	Secy of State	Monthly, with annual cumulative report	Total expenditures, sources of income, monies or gifts to officials, legislation supported or opposed, media expenditures	Fine up to \$5,000 and/or 1 year in jail; revocation of registration at discretion of Secy of State
Connecticut	Ethics Commission	Quarterly, monthly during session	Total expenditures, sources of income, monies or gifts to officials, terms of any contracts or agreements	Fine up to \$1,000 and/or 1 year jail
Delaware	Legislative Coun.	Quarterly	Total expenditures, monies or gifts to officials	Failure to register: Class C felony; failure to report: registration cancelled
Florida	Jt. Legislative Office	Semi-annually	Total expenditures, sources of income	Prohibition from lobbying during session in which offense occurred
Georgia	Secy of State	Not required	None	Misdemeanor
Hawaii	Ethics Comm.	Semi-annually	Total expenditures, sources of income, monies or gifts to officials, legislation supported or opposed	Misdemeanor
Idaho	Secy of State	Annually, monthly	Total expenditures, expenditures by category, sources of income	Late filing: \$10/day; for registration or reporting offenses, fine up to \$250 and/or 6 months imprisonment; violation of lobbying statutes, registration loss



STATE	LOBBYIST MUST REGISTER WITH	FREQUENCY OF REPORT	ACTIVITIES REPORTED	PENALTIES
Illinois	Secy of State	January, April, July	Total expenditures, monies or gifts to officials	Corporations fined \$10,000; individuals banned from lobbying for 3 years
Indiana	Secy of State	Semi-annually	Total expenditures, expenditures by category, monies or gifts to officials, legislation supported or opposed, update of registration information	Failure to file report: \$10/day (up to \$100); violation of reporting o false report: Class D felony
Iowa	Clerk of House, Secy of Senate	Monthly	Total expenditures, expenditures by category, monies or gifts to officials	Cancellation of registration
Kansas	Secy of State	Monthly (for all months with expenditures)	Total expenditures, expenditures by category, sources of income, monies or gifts to officials	Class B misdemeanor
Kentucky	Attorney Genl	After session	Total expenditures, expenditures by category, sources of income, legislation supported or opposed	Fine or \$5,000 and/or 5 years imprisonment
Louisiana	Clerk of House, Secy of Senate	Not required	None	Fine of \$500 and/or 6 months jail
Maine	Secy of State	Monthly during session	Total expenditures, sources of income, monies or gifts to officials, legislation supported or opposed	Failure to register or report: fine of \$50
Maryland	Ethics Comm.	Semi-annually	Expenditures by category, monies or gifts to officials, update of registration information	Misdemeanor
Massachusetts	Secy of State	Semi-annually	Total expenditures, monies or gifts to officials	Failure to register or report: fine up to \$5,000; banned for 3 sessions from lobbying
Michigan	Secy of State	Annually	Expenditures by category, monies or gifts to officials, update of registration information	Failure to register or report: fine of \$10/day; failure to register after 30 days: fine up to \$1,000
Minnesota	Ethical Practices Board	Quarterly	Total expenditures, expenditures by category, sources of income, monies or gifts to officials, update of registration information	Late registration or report: \$5/day up to \$100; failure to report after second notice: misdemeanor
Mississippi	Secy of State	Annually	Expenditures by category, sources of income, monies or gifts to officials	First violation: fine up to \$1,000 and/or 6 months jail; second offense: fine up to \$5,000 and/or 3 years in prison
Missouri	Clerk of House, Secy of Senate	3 times during session	Total expenditures, expenditures by category, monies or gifts to officials, legislation supported or opposed	Misdemeanor; may not register for 2 years

STATE	LOBBYIST MUST REGISTER WITH	FREQUENCY OF REPORT	ACTIVITIES REPORTED	PENALTIES
Montana	Commissioner of Political Practices	Before Feb 16 during session, by the 16th of the month when \$5,000 or more was spend previous month; 60 days after adjournment	Expenditures by category, monies or gifts to officials, legislation supported or opposed	Fines between \$250 and \$7,500
Nebraska	Clerk of Legislature	Monthly during session, once during interim	Total expenditures, expenditures by category, sources of income, monies or gifts to officials, update of registration information	Class III misdemeanor
Nevada	Dir. Legislative Counsel Bureau	Monthly during session, after session	Total expenditures, expenditures by category	Late reports: \$5/day for first 30 days, \$100/day after that
New Hampshire	Secy of State	Semi-annually	Expenditures by category, sources of income	Misdemeanor
New Jersey	Attorney Genl	Quarterly, annual cumulative report	Expenditure by category, monies or gifts to officials, legislation supported or opposed, update of registration information	Misdemeanor
New Mexico	Secy of State	Upon filing, 60 days after session	Expenditures by category, monies or gifts to officials	Misdemeanor; fine up to \$1,000
New York	Temporary State Commission on Lobbying	Quarterly and annual cumulative report	Total expenditures, expenditures by category, monies or or gifts to officials, legislation supported or opposed	Class A misdemeanor
North Carolina	Secy of State	Annually	Expenditures by category	Fine between \$50 and \$1,000 and/or 2 years jail; may not lobby for 2 years
North Dakota	Secy of State	Annually	Monies or gifts to officials	Class B misdemeanor
Ohio	Jt Committee on Agency Rule Review	Semi-annually	Total expenditures, monies or gifts to officials, legislation supported or opposed	Misdemeanor of the 4th degree
Oklahoma	Jt Legislative Ethics Comm.	Semi-annually	Total expenditures, monies or gifts to officials	Failure to register or re-report: fine equal to 3 times amount of expenditure; 3rd violation: banned from lobbying for 5 years
Oregon	Govt Ethics Comm.	Quarterly	Expenditures by category, monies or gifts to officials	Each house of legislature prescribes penalty
Pennsylvania	Clerk of House, Secy of Senate	Semi-annually	Expenditures by category, monies or gifts to officials	3rd degree misdemeanor

STATE	LOBBYIST MUST REGISTER WITH	FREQUENCY OF REPORT	ACTIVITIES REPORTED	PENALTIES
Rhode Island	Secy of State	3 times during session	Sources of income, monies or gifts to officials	For person or company employing lobbyist, fines between \$200 and \$5,000; for lobbyist fines between \$100 and \$1,000; banned from lobbying for 3 years
South Carolina	Secy of State, Ethics Comm.	Annually	Expenditures by category, monies or gifts to officials	Misdemeanor; disqualified for 2 years
South Dakota	Secy of State	Annually	Expenditures by category, monies or gifts to officials	Disqualified for 3 years
Tennessee	State Librarian & Archivist	Annually	Monies or gifts to officials, business associations with officials	Late filing: suspension of registration; other: misdemeanor
Texas	Secy of State	Monthly during session, quarterly during the interim	Expenditures by category, legislation supported or opposed, media expenditures	Late filing: fine of \$100; failure to register: fine equal to 3 times amount spent; other: misdemeanor
Utah	Lt. Governor	Not required	None	Class C misdemeanor
Vermont	Secy of State	Annually and 2 months after start of session	Total expenditures	Fine up to \$100
Virginia	Secy of Commonwealth	After session	Total expenditures, sources of income, legislation supported or opposed	Failure to report: \$50/day until filed; other: misdemeanor
Washington	Public Disclosure Commission	Monthly	Expenditures by category, monies or gifts to officials, legislation supported or opposed	Determined by Commission; fines between \$250 and \$5,000
West Virginia	Clerk of Senate	After session	Total expenditures	None specified
Wisconsin	Secy of State	Semi-annually	Total expenditures, sources of income, monies or gifts to officials, legislation supported or opposed	Fine up to \$5,000
Wyoming	Director of Legislative Service Agency	Not required	None	Misdemeanor, fine up to \$200

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Source: The Book of the States, 1984-85

# Mandatory Seat Belt Laws: State Actions in 1984

## Summary

"Seat belts save lives." That is the consensus of those who have studied the issue. The Department of Transportation (DOT) is convinced enough that it has established the Federal Motor Vehicle Safety Standard 208 regarding safety belts (seat belts). DOT has recommended states adopt the criteria in this standard or--such are the persuasive powers of the federal government--national regulations will be imposed. This Research Report will briefly review the federal standard 208, and examine state legislative action on seat belts during 1984.

## DOT Minimum Criteria

The following six points are covered in the federal guidelines:

Who wears the seat belt? Each front seat occupant of a passenger car when the car is moving.

Any exceptions? Waivers to the use of seat belts should be permitted for medical reasons only.

What are the penalties for not buckling up? Not less than \$25.00 for each passenger not wearing a belt. This fine can include court costs.

What about damages from accidents? If a person is involved in an accident while not using his or her seat belt, that fact can be used to mitigate damages awarded for injuries sustained in the accident.

How about some education on seat belt use? DOT suggests a program to encourage compliance with the law.

When would such a law become effective? Not later than September 1, 1989.

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State Action in 1984

New York was the first state to enact mandatory seat belt legislation; its law went into effect on January 1, 1985. Sixteen other states considered seat belt bills during their session. The states ranged from coast to coast: Virginia and California, Hawaii and Massachusetts. Some typical legislation on the subject is summarized below.

The New York law is basically the same as the DOT standards. It includes the requirement that drivers are required to secure children passengers: those under four in a car seat; those 4-10 years old with a seat belt. The maximum fine imposed is \$50.00.

The New Jersey Senate considered legislation that differed from DOT criteria in two respects: penalties and damages. The Jersey state troopers (who wear uniforms similar to those worn in 1950's science fiction movies) would enforce the law only as a secondary action when the driver has been detained for another offense. The first offense would be \$10.00; after that, \$25.00; and if you violated the law five times or more in 3 years, your drivers license would be suspended. The legislation would not allow noncompliance to be used to mitigate damages.

The New Jersey Assembly debated a similar bill. The only major difference was in the penalties: a first offense brought a warning; a second offense, a \$5.00 fine; a third offense increased the fine to \$10.00; and, finally, suspension of drivers license if five or more violations in a three year period.

The Illinois legislature considered a seat belt bill that met almost none of the standards proposed by DOT. The bill did require passengers in the front seat to fasten seat belts; it also made drivers responsible for securing children. The legislation would have exempted delivery persons, those with written medical excuses, vehicles made before 1965, rural carriers and vehicles operated in reverse. The maximum fine would have been \$25.00. Noncompliance could not be used to limit damages, and there was no provision for education.

Michigan debated two bills that were almost the same as Illinois'--it required seat belt use but little else. No real enforcement, no penalties for noncompliance, no education on the issue.

Delaware met DOT standards of coverage and waivers. Its proposed penalty was a maximum of \$25.00; it would not have allowed noncompliance to limit liability; and it had no provisions for educating the public about seat belt use and the seat belt law.

A Pennsylvania bill was essentially the same as the one discussed in Delaware.

California considered legislation that would have required use by all persons in the car, with a fine of \$25.00 for violation. The law would not have applied to delivery persons, there were no provisions for mitigating damages for nonuse, and no provisions for education.

Conclusion

The movement towards mandatory seat belts continues. There are those who have philosophical objections to such laws. There are also those who maintain (with rather convincing statistical evidence) that seat belt use saves lives, and thus makes such laws a proper activity of government.

At any rate, the Department of Transportation has set its standards and is expecting states to enact laws matching them by 1989. Some states have already begun to take action; not all of the proposed legislation, however, meets the DOT criteria.

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Some information provided by the Motor Vehicle  
Manufacturers Association of the United States